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**Testimony of Susan Nofi-Bendici before the
Labor and Public Employees Committee Public Hearing
March 2, 2010**

My name is Susan Nofi-Bendici and I am the Deputy Director at New Haven Legal Assistance Association. I am here today to oppose H.B. No. 5299, "An Act Concerning the Streamlining of the Employment Compensation Appeals Process". If passed, this bill would eliminate the Employment Security Board of Review, which conducts the higher level of administrative review of unemployment determinations.

Eliminating the Board of Review and requiring parties to appeal from a referee's decision directly to Superior Court would not streamline the process. Instead, it would cause delays and make it more difficult for both claimant and employers to exercise their right to appeal from a referee's decision. Because the Board only handles unemployment appeals, its specialized knowledge allows it to issue quality decisions in an efficient manner. In 2009, the board processed 2,429 appeals.¹ Given the state's current budget deficit, it would make little sense to burden the judicial branch with adjudicating the voluminous appeals from referee decisions, when the Connecticut Labor Department receives federal funding to administer the unemployment appeals system. If the courts are burdened with adjudicating all appeals filed from referee decisions, the inevitable delays will cause financial hardship for claimants who were wrongly denied benefits and have to live without those benefits while the court appeal is pending. Under the current system, the Board of Review is required to adhere to federal timeliness and case ageing standards which insure that its decision are issued with reasonable promptness.

Eliminating the Board would also make it much more difficult for parties to challenge factual errors in a referee's decision. The only way to challenge findings of fact in court is to file a Motion to Correct. See Conn. Practice Book § 22-4. This generally also means requesting a transcript and requesting an extension of time to file the motion to correct while the transcript is being prepared. Connecticut's Supreme and Appellate Courts have held that failing to file a timely motion to correct prevents any further review of those facts by the courts.² The court rules for unemployment appeals are difficult for self-represented claimants to follow, and most

¹ See attached Higher Authority Appeals Time Lapse Report for Connecticut, 1/1/2009 through 12/31/2009, United States Department of Labor.

² *JSF Promotions, Inc. v. Administrator, Unemployment Compensation Act*, 265 Conn. 413, 422, 828 A.2d 609 (2003); *Calnan v. Administrator, Unemployment Compensation Act*, 43 Conn.App. 779, 686 A.2d 134 (1996).

claimants have no choice but to proceed pro se because they are unemployed and cannot afford to retain counsel. Under the current system, however, a party can appeal to the board by simply explaining in writing why it believes the referee's decision was wrong. The Board reviews the entire record, including the recording of the referee's hearing, and determines whether the referee's findings of fact are supported.³ The current administrative appeal system should remain intact because it is efficient, can be easily navigated by self-represented parties, and does not overburden the state's courts.

Additionally, CT's Legal Services Programs support S.B. No. 243, "An Act Concerning Unemployment Benefits for Those Persons who Become Disabled While Unemployed." This would allow individuals who have enough of a wage history to qualify for unemployment to continue to receive benefits should they be unfortunate enough to encounter the additional hardship of becoming disabled while unemployed. We also support H.B. No. 5284, An Act Concerning Domestic Violence Victims and Discriminatory Practices.

³ See Regs., Conn. State Agencies § 31-237g-48.



UNITED STATES DEPARTMENT OF LABOR
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Benefits: Timeliness and Quality Reports

HIGHER AUTHORITY APPEALS TIME LAPSE
 REPORT FOR 01/01/2009 THROUGH 12/31/2009

STATE	Total Workload	≤45 Days	60 Days	75 Days	90 Days	120 Days	150 Days	180 Days	210 Days	240 Days	270 Days	300 Days	330 Days	360 Days	>360 Days
Connecticut															
12/31/2009	198	66.2%	68.7%	88.4%	90.9%	93.9%	96.0%	97.0%	98.0%	98.5%	99.0%	99.5%	99.0%	99.5%	100.0%
11/30/2009	148	56.8%	62.2%	85.1%	89.2%	94.6%	95.9%	98.6%	98.6%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
10/31/2009	186	76.9%	81.2%	92.5%	94.1%	95.7%	98.4%	98.4%	98.9%	99.5%	100.0%	100.0%	100.0%	100.0%	100.0%
09/30/2009	221	63.8%	67.9%	86.4%	90.5%	92.8%	96.4%	97.3%	98.6%	99.1%	99.5%	99.5%	99.5%	100.0%	100.0%
08/31/2009	204	64.7%	71.1%	92.6%	94.1%	96.1%	98.5%	98.5%	99.5%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
07/31/2009	256	65.2%	69.5%	85.9%	89.5%	92.6%	96.5%	97.7%	98.8%	99.2%	99.2%	99.6%	99.6%	100.0%	100.0%
06/30/2009	214	62.6%	74.3%	93.0%	94.4%	98.1%	99.1%	99.1%	99.5%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
05/31/2009	227	72.7%	74.9%	92.5%	93.8%	96.9%	97.8%	98.7%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
04/30/2009	169	80.5%	83.4%	94.7%	95.3%	97.0%	98.8%	99.4%	99.4%	99.4%	99.4%	99.4%	99.4%	99.4%	100.0%
03/31/2009	208	77.9%	84.6%	92.8%	96.2%	96.2%	96.2%	98.1%	99.0%	99.5%	99.5%	99.5%	99.5%	99.5%	100.0%
02/28/2009	156	83.3%	85.3%	92.3%	94.2%	96.2%	97.4%	98.7%	98.7%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
01/31/2009	242	77.3%	81.0%	92.1%	93.8%	98.3%	98.3%	98.3%	98.8%	98.8%	99.2%	99.2%	99.2%	99.2%	100.0%

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